

OPINION
51-177

April 2, 1951 (OPINION)

TAXATION

RE: Federal Government Exempt From Gas Tax

Your letter of March 22, 1951, addressed to the attorney general, has been received.

Our recent legislative assembly passed Senate Bill No. 181, which amended both section 57-4106, NDRC, 1943, the three cent motor vehicle fuel tax, and section 57-4809, Supp. 1949, the one cent motor vehicle fuel tax. This tax was formerly charged against the vendor, but under the amendment now will be a tax on the sale, collectible by the motor vehicle fuel dealer.

You would like to know whether this change will exempt fuel purchases by the federal government.

As we construe the amendment, the tax is on the consumer, and in view of the decision laid down in the case of Federal Land Bank of St. Paul v. Bismarck Lumber Co., 314 U.S. 95, and supporting federal decisions, it is our opinion that the government and its governmental agencies will be exempt and will not need to pay the tax imposed.

This office recently held that this exemption also applies to Senate Bill 104 which was recently enacted and provided for an additional one cent motor vehicle fuel tax.

ELMO T. CHRISTIANSON

Attorney General